

REMARKS/ARGUMENTS

Claims 1-40 are pending. Claims 1-19 are withdrawn from consideration. Claims 20-40 are rejected. Claims 20-24 and 26-40 have been amended in order to further define Applicant's invention. Support for the amendments to claims 20 and 24 is found in original claim 25. Support for the amendments to claims 26 and 29 is found at page 7, lines 13 to 16 of the instant application. Support for the amendments to claims 20-24 and 26-40 relating to the term "frozen food" is found at page 14, line 11 of the present specification. Support for the term "coextruded" is found at pages 16-17 of the present specification. Support for the term "thermoformable" is found at page 14, lines 9-11 of the present specification. Support for the terms "top web" and "bottom web" is found in Examples 1 to 3. New claims 41 to 45 are added. Claim 25 is cancelled.

Claim Rejection – 35 U.S.C. §103

The Examiner rejected claims 20-40 under 35 U.S.C. § 103(a) as being unpatentable over Shepard et al. (U.S. 6,068,933) in view of Hwo (U.S. 4,882,229).

With respect to the rejection under 35 U.S.C. §103(a) of claims 20-40 as being unpatentable over Shepard in view of Hwo, Applicant respectfully submits that the claims, as amended, distinctly define the present invention from any of the art of record, taken singly or in combination, for the reasons stated below.

Shepard

Shepard discloses a film structure with various layers of nylon sandwiched between adhesive layers of anhydride modified polyolefins such as EVA based or

LLDPE based adhesives. Shepard also discloses that the film structures may comprise seven layers with a sealant layer comprising a blend of LLDPE and LDPE. Shepard further discloses that the film structures are useful in packaging of products, such as food.

In contrast to the Shepard film, Applicant's invention (as defined by the amended claims 20 to 40) is for a food package for a frozen food comprising a coextruded multilayer film which may be sealed to a thermoformable multilayer film structure and wherein said thermoformable multilayer film structure is peelable from said coextruded multilayer film structure. A preferred embodiment of the present application is a food package for frozen food comprising a top web and a bottom web wherein said top web comprises a coextruded multilayer film comprising a polyamide, a second layer comprising an adhesive, a third layer comprising a polyamide, a fourth layer comprising an adhesive, a fifth layer comprising a polyamide, a sixth layer comprising an adhesive, and a seventh layer comprising a polymer selected from the group consisting of low density polyethylene, ethylene vinyl acetate copolymer, ethylene methyl acrylic acid copolymer, ethylene methyl acrylate copolymer, ethylene acrylic acid copolymer, ionomer, linear low density polyethylene, metallocene catalyzed polyethylene, medium density polyethylene, high density polyethylene, ultra low density polyethylene, and very low density polyethylene, and wherein the seventh layer may further comprise a second polymer which is selected from the group consisting of polybutylene, polypropylene and high density polyethylene wherein said coextruded multilayer film structure may be heat sealed to a thermoformable multilayer film structure.

Applicant's invention, therefore, is for a food package for frozen food comprising a coextruded multilayer film structure having a sealant layer which is distinct from the sealant layer described in Shepard and wherein said coextruded multilayer film structure is sealable to a thermoformable multilayer film structure.

Hwo

Hwo discloses a composition which is a specific blend of high molecular weight butane-1 homopolymer or copolymer and low density polyethylene. Hwo further discloses that this composition, or blend, comprises from about 10% percent by weight to about 30 percent by weight of butane-1, homopolymer or copolymer, and from about 90 percent by weight to about 70 percent by weight of low density polyethylene. It is very clear throughout the entire disclosure of Hwo that it is this blend of two components (butane-1 homopolymer or copolymer and low density polyethylene) that accounts for the improved peelable seal. Thus, Hwo has discovered and disclosed that an improved peelable seal can be obtained due to a synergistic action which is derived from the blend of butane-1 homopolymer or copolymer and low density polyethylene. It is the combination of the two components in the specific ranges taught by Hwo that accounts for the improved peelable seal. There is no teaching or suggestion in Hwo that any single component – such as butene-1 homopolymer or copolymer or low density polyethylene would have any usefulness or application in the area of peelable seal technology. Hwo's teaching is exclusively for the combination or blend of butene-1 homopolymer or copolymer and low density polyethylene. There is simply no teaching or suggestion in Hwo's disclosure that would lead or motivate one to utilize only a single component –

either butene-1 homopolymer or copolymer or low density polyethylene in a peelable seal. Applicant respectfully suggests that the Examiner has taken one component of Hwo's disclosure – polybutene – and applied it to a use – peelable seal technology – in order to arrive at Applicant's invention.

The Examiner states that her motivation to combine Shepard with Hwo is found at column 2, lines 49-50 of Hwo, where peelable seals are discussed.

Applicant respectfully submits that a general discussion of the need for peelable seals in packages (Hwo – column 2, lines 49-50) in combination with Hwo specific teaching of a peelable seal combination which is distinct from Applicant's invention is not sufficient motivation to make the combination made by the Examiner.

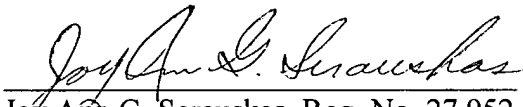
Conclusion

In view of the foregoing remarks and amendments, Applicant respectfully submits that all of the claims in the application are in allowable form and that the application is now in condition for allowance. If, however, any outstanding issues remain, Applicant urges the Patent Office to telephone Applicant's representative so that the same may be resolved and the application expedited to issue. Applicant requests the Patent Office to indicate all claims as allowable and to pass the application to issue.

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